

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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EDDIE COTTO,

Plaintiff, : 07 Civ. 7656 (LTS) (AJP)

-against- : **ORDER**

SERGEANT BONES, et al., :

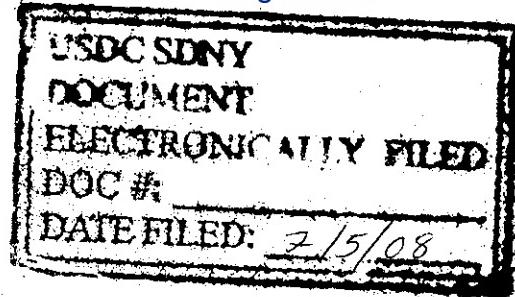
Defendants. :  
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**ANDREW J. PECK, United States Magistrate Judge:**

Plaintiff Cotto's Motion to Amend the Complaint, sworn to January 26, 2008, is GRANTED. The Second Amended Complaint is deemed served on existing defendants and filed as of today.

The Court previously held that defendants are to respond to the Second Amended Complaint by February 22, 2008. While it appears that plaintiff's false arrest claim may be time barred, it also appears that a motion to dismiss his malicious prosecution claim would not be successful (although the claim may later be subject to a summary judgment motion). Accordingly, while the Court cannot prevent defendants from moving to dismiss, the Court strongly discourages it and will lift the stay of discovery. Accordingly:

1. All fact and expert discovery must be completed by May 15, 2008. Expert reports must be served by April 25, 2008.



2. Each party will notify this Court (and the District Judge) by May 16, 2008 as to whether it intends to move for summary judgment. Summary judgment motions must be filed by May 30, 2008, and must comply with the Federal Rules of Civil Procedure, the Local Rules of this Court, and the chamber rules of the District Judge to whom this case is assigned.

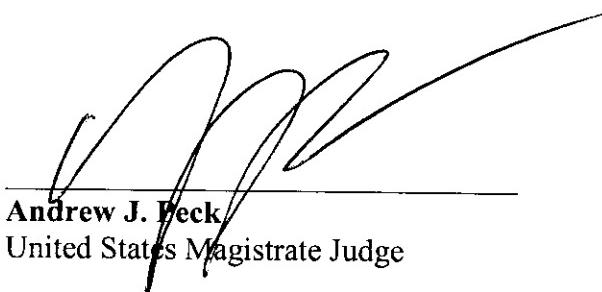
3. The parties are to submit a joint proposed pretrial order, in conformance with the Federal Rules of Civil Procedure, the Local Rules of this Court, and the chamber rules of the District Judge to whom this case is assigned, by May 30, 2008 if neither party is moving for summary judgment, or 30 days after decision on the summary judgment motion. The case will be considered trial ready on 24-hours notice after the pretrial order has been submitted.

4. A status conference will be held before the undersigned on February 27, 2008 at 10:00 a.m. in Courtroom 20D (500 Pearl Street). Defense counsel shall arrange with the prison for Mr. Cotto's telephonic participation.

5. The parties are directed to follow the "Individual Practices of Magistrate Judge Andrew J. Peck," a copy of which was previously provided.

SO ORDERED.

Dated: New York, New York  
February 5, 2008

  
Andrew J. Peck  
United States Magistrate Judge

Copies to: Eddie Cotto (Mail)  
Brian Francolla, Esq. (Fax)  
Judge Laura Taylor Swain